

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:

CITY OF CHARLOTTE, NORTH

CAROLINA)
ADMINISTRATIVE ORDER
ON CONSENT

Docket No. CWA-04-2007-4750

PROCEEDING UNDER SECTION
309(a) of the Clean Water Act,
33 U.S.C. S 1319(a)

WHEREAS, on November 1, 1999, the United States Environmental Protection Agency ("EPA") sent a letter to the City of Charlotte, North Carolina acting by and through one of its municipal departments, the Charlotte-Mecklenburg Utilities (hereinafter referred to as "CMU"), inviting CMU to participate in the EPA Region 4 Management, Operation and Maintenance ("MOM") Programs Project ("MOM Project"); and,

WHEREAS, on March 9, 2000, EPA held a watershed meeting in Charlotte to explain the MOM Project to CMU and other invitees and to solicit their participation in the MOM Project; and,

WHEREAS, CMU attended the watershed meeting and informed EPA, by letter dated March 13, 2000, that it would participate in the MOM Project; and,

WHEREAS, CMU participated in the MOM Project by conducting a voluntary, good faith, self-assessment of its sewerage infrastructure MOM Programs; and, \

WHEREAS, on October 30, 2000, CMU submitted to EPA the self-assessment report which disclosed Clean Water Act ("CWA") and permit violations.

STATUTORY AUTHORITY

NOW THEREFORE, the following FINDINGS OF FACT and LAW are made and this ADMINISTRATIVE ORDER ON CONSENT ("ORDER") is issued pursuant to the authority vested in the Administrator of the EPA by Section 309(a) of the CWA, 33 U.S.C. 51319(a), as amended, which has been delegated to the Regional Administrator, EPA Region 4, and re-delegated by the Regional Administrator to the Director of the Water Management Division. EPA has notified the State of North Carolina Department of Environment and Natural Resources ("DENR") of this Order.

FINDINGS OF FACTS AND LAW

Upon Consent of the parties by their attorneys and/or authorized officials, the parties stipulate and the Director finds:

I. To accomplish the objective of the CWA, as defined in Section 101 (a) of the CWA, 33 U.S.C. S 1251 (a), to restore and maintain the chemical, physical and biological integrity of the nation's waters, Section 301 (a) of the CWA, 33 U.S.C. S 131 1(a), prohibits the point source discharge of pollutants into "Waters of the United States," except as in compliance with a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. s 1342.

2. CMU is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. S 1362(5), and is thus subject to its requirements.

3. CMU owns and operates Publicly Owned Treatment Works ("POTW"), including five (5) Wastewater Treatment Plants ("WWTP") and their associated sanitary sewage collection systems ("Collection Systems"), which have been issued NPDES permits (the "NPDES Permits") by DENR as follows:

a. sugar creek WWTP, located at 5301 Closeburn Road, Charlotte, NC 28216, which operates under NPDES Permit Number NC0024937 and discharges pollutants as a point source into Sugar Creek, a "Water of the United States" as defined in Section 502(7) of the CWA, 33 U.S.C. S 1362(7).

b. Irwin creek WWTP, located at 4000 Westmont Drive, Charlotte, NC 28210, which operates under NPDES Permit Number NC0024945 and discharges pollutants as a point source into Irwin Creek, a "Water of the United States" as defined in Section 502(7) of the CWA, 33 U.S.C. S 1362(7).

c. Mallard creek WWTP, located at 12400 US Highway 29 North, Charlotte, NC 28262, which operates under NPDES Permit Number NC0030210 and discharges pollutants as a point source into Mallard Creek, a "Water of the United States" as defined in Section 502(7) of the CWA, 33 U.S.C. s 1362(7).

d. McAlpine Creek WWTP, located at US Highway 521 south, Charlotte, NC 28202, which operates under NPDES Permit Number NCO(24970 and discharges pollutants as a point source into McAlpine Creek, a "Water of the United States" as defined in Section 502(7) of the CWA, 33 U.S.C. S 1362(7).

e. McDowell Creek WWTP, located at 4901 Neck Road, Huntersville, NC 28078, which operates under NPDES Permit Number NC0036277 and discharges pollutants as a point source into McDowell Creek, a "Water of the United States" as defined in Section 502(7) of the CWA, 33 U.S.C. S 1362(7).

4. DENR has also issued to CMU a North Carolina system-wide wastewater collection system permit number WQCSOOOOI, dated May 12, 2005, pursuant to 15A NCAC 2H .0218 and which shall be renewed every five (5) years (the "State Collection System Permit").

5. The NPDES Permits include a requirement, Part II., Section C., Paragraph 2., to properly operate and maintain the POTWs, including the WWTPs and Collection Systems which transports wastewater to the WWTPs.

6. EPA alleges that CMU has violated Section 3016) of the CWA, 33 U.S.C. S 13116), in that CMU has discharged untreated sanitary sewage containing pollutants to "Waters of the United States" at locations not authorized by an NPDES permit.

7. EPA alleges that CMU has violated Part II., Section C., Paragraph 2. of its NPDES Permits by failing to properly operate and maintain the Collection Systems resulting in sanitary sewage overflows ("SSOs"),

8. While neither admitting nor denying these alleged violations and findings, CMU voluntarily and in good faith consents to the requirements of this Order in an effort to eliminate and decrease the likelihood of SSOs including discharges of sanitary sewage to "Waters of the United States."

WORK TO BE PERFORMED

Based on the above Findings of Fact and Law and pursuant to the authority of Sections 309(a) of the CWA, 33 U.S.C. S 13196), THE DIRECTOR HEREBY ORDERS AND CMU HEREBY CONSENTS TO THE FOLLOWING:

9. Management Programs

a. Continuing Collection System Evaluation and Rehabilitation Program

CMU shall continue refinement and implementation of its on-going Collection System Evaluation and Rehabilitation Program for the term of this Order. This Program utilizes a "find and fix" approach that combines inspection, repair and rehabilitation activities to prioritized sewer sheds

to prevent SSOs. Within twelve (12) months of the Effective Date of this Order, CMU shall review, evaluate, refine, and document the processes within this Program used to:

- i. Prioritize sewersheds where rehabilitation work will be performed; ii. Conduct sewer flow monitoring to support engineering analysis; iii. Conduct inspections of manholes, sewer lines, and private service laterals within the prioritized rehabilitation areas; iv. Prioritize defects identified in iii. above and expeditiously implement rehabilitation or repair of high priority defects of manholes, sewer lines, and service lateral connections found by inspections described in iii. above to be defective;
- v. Identify sewer lift stations and force mains that need rehabilitation due to capacity, mechanical, or other reasons; and vi. Prioritize and implement rehabilitation of lift stations and force mains identified in v. above.

The documentation for the items above shall include schedules for implementation, written procedures and performance goals for conducting the activities described above (e.g., flow monitoring) taking into consideration such factors as: location and nature of customer complaints; results of flow and rainfall monitoring; location and nature of SSOs; lift station maintenance records and pump run times; field crew activities including routine inspections; inventory and effectiveness of sewer rehabilitation completed; and other sewer assessments. This documentation shall include, where appropriate: quality assurance/quality control standards; inspection procedures and standards including required certifications; standard forms and reports; an information management process including appropriate mapping requirements; and provisions for conducting related activities such as

closed circuit television inspections, sewer cleaning, flow monitoring. Except as otherwise provided in this Order, the work required in this Paragraph 9.a shall be performed consistent with accepted industry standards, appropriate sections of Handbook: Sewer System Infrastructure Analysis and Rehabilitation, EPA/625/6-91/030, 1991; Existing Sewer Evaluation and Rehabilitation, WEF MOP FD-6, 1994, and applicable State regulations and standards.

CMU shall notify EPA and DENR when documentation Of each of the items above has been completed and shall maintain the documentation available for review by EPA and DENR. CMU may change or modify any of these processes at any time by revising the documentation and notifying EPA and DENR within ninety (90) days of the change(s).

. CMU shall maintain records of sewer manholes, sewer lines, private service laterals, lift stations, and force mains rehabilitated, and estimates of the effectiveness of completed rehabilitation.

These records shall be consistent with CMU's existing mapping and data management programs.

b. Capacity Assurance Program

i. Adequate Capacity Definitions

A. For purposes of CMU's Capacity Assurance Program, "adequate treatment capacity " means that the WWTP which will receive flow from newly authorized sewer service connection(s) or increased flows from existing sewer service connections will not be in "non-compliance" for quarterly reporting as defined in 40 C.F.R. Part 123.45, Appendix A, at the time the WWTP receives the flow from the newly authorized sewer service connection(s) or increased flows from existing sewer service connections, and the flow predicted to occur from all other authorized sewer service connections which have not begun to discharge into CMU's Collection Systems. Adequate treatment capacity shall

be based on actual flow measured at the WWTP plus those flows CMU has committed to accept from new or existing connections that have not been activated and are therefore not contributing flow to the WWTP. Once new service connections or increases in existing connections are activated, flow from these new and existing connections shall become part of the actual flow and shall no longer be included in the total committed, non-contributing total.

B. For purposes of CMU's Capacity Assurance Program, "adequate transmission capacity" means that each pump station through which all flow from the newly authorized sewer service connection(s) or increased flows from existing sewer service connections passes to the WWTP receiving such flow can transmit the existing peak flow passing through the pump station plus the additional peak flow predicted to occur from the newly authorized sewer service connection(s) or increased flows from existing sewer connections, and the additional peak flow predicted to occur from all other authorized sewer service connections which have not begun to discharge into CMU's Collection Systems. Adequate transmission capacity shall be based on actual flow plus those flows CMU has committed to accept from new or existing connections that have not been activated and are therefore not contributing flow to the Collection System. Once new service connections or increases in existing connections are activated, flow from these new and existing connections shall become part of the actual flow and shall no longer be included in the total committed, non-contributing total.

C. For purposes of CMU's Capacity Assurance Program, "adequate collection capacity" shall mean that each gravity sewer line through which all flow from the newly authorized sewer service connection(s) or increased flows from existing sewer connections passes to the WWTP receiving such flow can carry the existing peak flow passing through the gravity sewer line plus the

additional peak flow predicted to occur from the newly authorized sewer service connection(s) or increased flows from existing sewer connections, and the additional peak flow predicted to occur from all other authorized sewer service connections which have not begun to discharge into CMU's Collection Systems. Adequate collection capacity shall be based on actual flow plus those flows CMU has committed to accept from new or existing connections that have not been activated and are therefore not contributing flow to the Collection System. Once new service connections or increases in existing connections are activated, flow from these new and existing connections shall become part of the actual flow and shall no longer be included in the total committed, non-contributing total.

ii. Capacity Assurance Program

Within twelve (12) months of the Effective Date of this Order, CMU shall develop and submit, for EPA review and comment, a Capacity Assurance Program, including a schedule of implementation, as described in this Paragraph 9.b. Within four (4) months of the date of receipt of EPA comments, CMU shall address EPA's comments, modify the Capacity Assurance Program accordingly, and submit the program to EPA for final approval. If necessary, CMU shall, within sixty (60) days of the date of receipt of EPA comments, meet with EPA to discuss EPA's comments and resolve any issues with those comments. Upon receipt of EPA's final approval of the Capacity Assurance Program, CMU will initiate implementation of the approved Capacity Assurance Program in accordance with the approved schedule and thereafter have program and implementation documentation available for on-site review by EPA. It is understood that CMU will implement the Capacity Assurance Program incrementally according to the schedule approved by EPA along with the Capacity Assurance Program. The implementation schedule will follow CMU's development and implementation of tools and processes integral to corresponding elements of the Capacity Assurance

Program. No criteria contained in the Capacity Assurance Program shall be construed as setting standards for the ultimate design or rehabilitation of CMU's Collection Systems.

The Capacity Assurance Program to be developed by CMU shall contain the following components:

- i. Description of processes and methods to be used by CMU to determine adequate collection, transmission and treatment capacity; ii. Description of processes and methods to be used by CMU to evaluate the impact(s) of projected flows on adequate collection, transmission and treatment capacity; iii. Description of protocols (such as sources and accuracy of data to be used, basis of flow estimation / projections, tools to be used, etc.) to be used by CMU for implementation of the Capacity Assurance Program;
- iv. Description of process for certification of adequate collection, transmission and treatment capacity by a registered professional engineer before new service connections or increases in flow from existing sewer connections are authorized;
- v. Description of process for integrating applications for new service connections or increased flows from existing with the Capacity Assurance Program; and, vi. Description of an information management system to be used to monitor and track adequate collection, transmission and treatment capacity.

I O. Operation Programs: Grease Control Program

Within six (6) months of the Effective Date of this Order, CMU shall review, evaluate, revise and submit for EPA review and comment its Grease Control Program, including a schedule of implementation not to exceed two (2) years from the Effective Date of this Order, as described in this Paragraph 10. Within two (2) months of the date of receipt of EPA's comments, CMU shall modify the

Grease Control Program in accordance with EPA's comments and resubmit the program to EPA. If necessary, CMU shall, within forty-five (45) days of the date of receipt of EPA comments, meet with EPA to discuss EPA's comments and resolve any issues with those comments. Upon receipt of EPA's approval of the Grease Control Program, CMU shall initiate implementation of the Grease Control Program in accordance with the approved schedule and thereafter have program and implementation documentation available for EPA and DENR on-site review.

The Grease Control Program shall contain the following elements:

- a. legal authority to control the discharge of grease into CMU's Collection System by implementing the Grease Control Program elements contained in the following subparagraphs, including an assessment of the feasibility of instituting a permit program;
- b. identification of accepted devices to control the discharge of grease into CMU's Collection System;
- c. establishment of standards for the design and construction of grease control devices including standards for capacity and accessibility, site map, design documents and asbuilt drawings;
- d. establishment of grease control device management, operation and maintenance standards, or best management practices, that address on-site record keeping requirements, cleaning frequency, cleaning standards, use of additives, and ultimate disposal;
- e. establishment of construction inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements, to assure that grease control

devices are constructed in accordance with established design and construction standards;

- f. establishment of compliance inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements to assure that grease control devices are being managed, operated and maintained in accordance with the established management, operation and maintenance standards or best management practices;
- g. establishment of an enforcement program to ensure compliance with the Grease Control Program;
- h. establishment of a compliance assistance program to facilitate training of grease generators and their employees; i. establishment of a public education program directed at reducing the amount of grease entering CMU's Collection System from private residences;
- j. establishment of staffing and equipment requirements to ensure effective implementation of the Grease Control Program; and,
- k. establishment of performance indicators to be used by CMU to measure the effectiveness of the Grease Control Program.

II. Maintenance Programs

CMU shall review, evaluate, refine, and continue on-going implementation of its Maintenance Programs to improve the performance of the Collection System. Within twelve (12) months of the Effective Date of this Order, CMU shall develop documentation of its Maintenance Programs, notify EPA and DENR that the documentation is complete, and maintain the documentation

available for review by EPA and DENR. Such documentation shall include the following components:

- a. Description of routine gravity sewer cleaning programs including those designed to remove debris and roots; b, Description of routine programs to maintain access to off-street sewer facilities; and,
- c. Description of routine inspection programs to identify, prioritize, and repair deficiencies discovered in gravity sewer lines, manholes, lift stations, and force mains.

For each component a. through c. above, the documentation shall include schedules for implementation, written procedures and performance goals for conducting the maintenance activities, how needs are identified and prioritized, work management procedures, and personnel and equipment allocated. CMU may modify any of the programs described in the Maintenance Programs at any time. When modifications are made, CMU shall revise the program documentation and notify EPA and DENR within ninety (90) days of the modifications.

12. Capital Improvement Projects

a. Identified Capital Improvement Projects

CMU shall complete the capital improvement projects shown in Exhibit A in accordance with the schedule shown therein, unless otherwise agreed to in writing by the parties. The completion of these projects shall be enforceable under this Order.

b. Additional Capital Improvement Projects

Within twelve (12) months of the Effective Date of this Order, CMU shall review and evaluate all SSOs which occurred in CMU's Collection Systems within its fiscal years 2005 and 2006. For those SSOs which are not expected to be eliminated by the capital improvement projects

shown in Exhibit A or through enhanced MOM programs, CMU shall submit for EPA review and comment a description of any necessary additional capital improvement projects, including an implementation schedule for those improvements, to eliminate these SSOs. The schedule shall provide for all of these additional capital improvement projects, if any, to be initiated within five (5) years from the Effective Date of this Order.

13, Continued Implementation of MOM Programs

CMU shall continue to implement all of its other MOM programs, not specifically referenced in this Order, which are necessary to comply with the State Collection System Permit or are needed to reduce or eliminate SSOs. CMU shall provide adequate funding and resources for the development and implementation of all of its MOM programs including those set forth in this Order. Within two (2) years of the Effective Date of this Order, CMU shall: develop, review and evaluate, as necessary to improve Collection System performance, a Plan for Continuous Improvement for all its MOM programs, including a schedule to implement necessary revisions not to exceed four (4) years from the Effective Date of this Order; notify EPA and DENR that the development, review and evaluation has been completed; initiate implementation of the revisions accordingly; and, have the Plan for Continuous Improvement and its implementation documentation available for EPA and DENR on-site review.

DOCUMENTATION AND REPORT SUBMITTAL

14. CMU shall submit to EPA and DENR written semi-annual progress reports (Semi-Annual

Reports) that include:

- a. a description of the actions which have been taken toward achieving compliance

with this Order during the period since submittal of the previous Semi-Annual

Report (and in the case of the first Semi-Annual Report, since the Effective Date of this Order);

- b. an assessment of the effectiveness of such actions in preventing SSOs; ~~c.~~ a list of such SS()s that occurred during the period since submittal of the previous Semi-Annual Report (and in the case of the first Semi-Annual Report, since the Effective Date of this Order);
- d. an analysis of the cause of each SSO;
- e. a description of CMU's plan to address and prevent such SSOs from occurring in the future;
- f. the status of all capital improvement projects provided for in Paragraph 12 of this Order including a description of any capital improvements completed during the period since submittal of the previous Semi-Annual Report (and in the case of the first Semi-Annual Report, since the Effective Date of this Order); and
- g. a description of any capital improvements expected to be completed during the following six (6) month period.

CMU shall begin to submit these Semi-Annual Reports to EPA and DENR on January 31, 2007, for the period from the Effective date of this Order to December 31, 2006, and shall continue to submit such Semi-Annual Reports at the end of each July (for the period from January I through June 30) and each January (for the period from July I to December 31) thereafter until the submission of the Final Report as set forth below.

15. All documentation and reports required to be submitted under this Order shall contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

16. The reports and certification statement shall be signed by a principal executive officer, a ranking elected official, or a duly authorized representative as specified by 40 CFR SS 122.22(b)(2) and 122.22(d).

17. Documentation, reports and other correspondence sent by the parties to each other pursuant to this Order shall be sent by registered mail, certified mail (return receipt requested), or deposited with an overnight mail/delivery service, to the following addressees:

As to EPA:

Chief, Water Programs Enforcement Branch
Water Management Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
ATTN: John Harkins

As to DENR:

Division of Water Quality
North Carolina Department of Environment and
Natural Resources
1617 Mail Service Center
Raleigh, NC 27699-1617
ATTN: Jeffrey Poupart

As to CMU:

Barry M. Gullet, P.E.
Deputy Director
Charlotte-Mecklenberg Utilities
5100 Brookshire Boulevard
Charlotte, North Carolina 282216

18. Notifications to, or communications with, EPA and DENR by CMU shall be deemed submitted on the date they are postmarked and sent by registered mail, certified mail (return receipt requested), or deposited with an overnight mail/delivery service. Notifications to, or communications with, CMU by EPA shall be deemed received three (3) days after the date they are postmarked and sent by registered mail, certified mail (return receipt requested), or deposited with an overnight mail/delivery service.

19. When circumstances are occurring, or have occurred, which may delay the completion of any requirement of this Order, whether or not arising from causes beyond the control of CMU, including its consultants and contractors, despite CMU's best efforts to fulfill the requirement, CMU shall so notify EPA, in writing, within fifteen (15) days after CMU learns, or in the exercise of reasonable diligence under the circumstances should have learned, of the delay or anticipated delay. The notice shall describe in detail the basis for CMU's contention that it experienced a delay, the anticipated length of the delay, the precise cause or causes of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented. Failure to so notify EPA shall constitute a waiver by CMU of any claim for delay under this paragraph as to the event in question. If EPA finds that a delay in performance is or was arising from causes beyond the control of CMU, including its consultants and contractors, EPA may extend

the time for performance, in writing, for a period to compensate for the delay resulting from such causes.

COMPLIANCE WITH THIS ORDER

20. CMU's compliance with this Order does not necessarily constitute compliance with the provisions of the CWA, CMU's NPDES Permits or the State Collection System Permit. OIU shall remain solely responsible for compliance with the terms of this Order, the CWA, the NPDES Permits and the State Collection System Permit. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA, including criminal punishment as provided in Section 309 of the CWA, 33 U.S.C. S 1319. This Order does not waive or modify or in any way relieve CMU of its obligations to comply with the NPDES Permits, the State Collection System Permit, the CWA or any other local, state, or Federal law.

FINAL REPORT AND TERMINATION OF THIS ORDER

21. Within ninety (90) days after CMU has satisfied the terms of this Order by (a) establishing, and successfully implementing for a period of twelve (12) months, all the MOM programs and other requirements in this Order as set forth in Paragraphs 9 through 11, (b) completing construction of all the capital improvement projects as set forth in Paragraph 12.a, and (c) initiating construction of all the capital improvement projects as set forth in Paragraph 12.b, CMU shall submit for EPA review and approval a final report ("Final Report") that includes a description of all of the actions which have been taken toward achieving compliance with this Order, an assessment of the effectiveness of such actions in preventing SSOs, and an analysis of whether additional actions beyond the scope of this Order are necessary to further prevent such SSOs. EPA shall use its best efforts to expeditiously review the Final

Report. If EPA determines that CMU has provided a satisfactory Final Report as required above and has satisfied the terms of this Order as set forth above, EPA will provide notice to CMU, and this Order shall be deemed terminated. If EPA determines that the Final Report is not satisfactory or that CMU has not satisfied any term of this Order as set forth above, EPA will notify CMU and provide a list Of the deficiencies which may require CMU to modify a MOM program as appropriate in order to correct a deficiency. In this event, CMU shall correct such deficiencies and shall submit a modified Final Report in accordance with the EPA notice. If necessary, CMU shall, within sixty (60) days of the date of receipt of EPA comments, meet with EPA to discuss EPA's comments and resolve any issues with those comments.

EFFECTIVE DATE

22. This Order is effective upon receipt by CMU of a fully executed Order.
FOR THE CITY OF CHARLOTTE



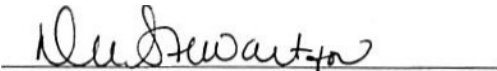
Signature and Title

Key Bus
iness Executive
Charlotte-Mecklenburg
Utilities

September 26, 2006

Date

FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY



James D. Giattina, Dire tor
Water Management Division

13 Zooq

Date

Exhibit A

Consolidated Pump Station at McAlpine WW TP

Identified Problem - Existing influent pump stations do not have adequate capacity to receive projected wet weather flow contributing to SSO's upstream Of the WWTP.

Scope - Project consists of a new influent pump station at the McAlpine Wastewater Treatment Plant. The new station is designed to accept dry and wet-weather flow from the existing McAlpine outfall and the proposed McAlpine Relief sewer and pump that flow into the treatment process or on-site flow equalization facilities.

Schedule — Construction started in October, 2004 with completion by June 30, 2008.

Irwin Creek Relief Sewer, Phase II

Identified Problem - Existing Irwin Creek Outfall (trunk sewer) is not adequate to carry projected flow which could result in wet weather SSO's.

Scope — Project consists of approximately 10,800 linear feet of sewer pipe ranging from 36" to 54" in diameter and parallels the existing the Irwin Creek Outfall. The project extends from the terminus of phase one just north of West Boulevard to just north of West Fifth Street.

Schedule — Construction started in December, 2004 with completion by September 30, 2008.

Long Creek Outfall, Phase I & II

Identified Problem - Existing Long Creek Outfall (trunk sewer) is not adequate to carry projected flow which could result in wet weather SSO's.

Scope — Project consists of approximately 40,700 linear feet of 42" to 54" sewer pipe and parallels the existing Long Creek Outfall. The project extends from the recently completed Long Creek Pump Station and Flow Equalization facility upstream to near Oakdale Road.

Schedule — Construction started in February, 2005 with completion by January 31, 2008.

Briar Creek Relief Sewer, Phase I and Pump Station

Identified Problem - The existing Briar Creek Outfall (trunk sewer) is not adequate to carry projected flows. Projected flows from the new relief sewer will be greater than the existing influent pump station can convey. These bottlenecks could cause wet weather SSO's upstream of the Sugar Creek WWTP.

Scope — Project consists of a new influent pump station at the Sugar Creek Wastewater Treatment Plant and approximately 23,000 linear feet of 60" to 72" sewer pipe. The pump station is designed to accept dry and wet-weather flow from the existing sewer outfalls and the proposed Briar Creek Relief sewer. The relief sewer will extend from the new pump station up to near Randolph Road.

Schedule — Construction on the pump station started in April. The relief sewer is currently in final design and easement acquisition. The relief sewer construction is expected to begin in July 2007. The project shall be completed by November 30, 2010.

McAlpine Relief Sewer, Phase I

Identified Problem - The existing pipeline is not adequate to carry projected flows which could result in wet weather SSO's.

Scope — Project consists of 12,900 linear feet of 78" diameter sewer line. The relief sewer will extend from the new McAlpine Influent Pump Station up to the confluence of Four Mile Creek.

Schedule - The project is currently in final design and easement acquisition. Construction is projected to begin in July, 2007 with completion by November 30, 2010.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER 61 FORSYTH
STREET

ATLANTA, GEORGIA 30303-8960

February 27, 2007

CERTIFIED MAIL 7005 3110 0003 6266 0066 RETURN
RECEIPT REQUESTED

Mr. Douglas O. Bean
Key Business Executive
Charlotte-Mecklenburg Utilities
5100 Brookshire Boulevard
Charlotte, NC 28216

SUBJ: Consent Agreement and Consent Order for Compliance No. C WA-04-2007-4750 Charlotte-Mecklenburg Utilities

Dear Mr. Bean:

Pursuant to Section 309(a) of the Clean Water Act (the Act or C WA), 33 U.S.C. § 1319(a), as amended, the Director, Water Management Division, Region 4, United States Environmental Protection Agency (EPA), has determined that the Charlotte-Mecklenburg Utilities is in violation of Section 301 of the Act, 33 U.S.C. 1311. As a result, the Director has issued the enclosed Section 309(a) Consent Agreement and Consent Order for Compliance (Order).

This Order does not replace, modify or eliminate any other requirement of the Act. Notwithstanding the issuance of this Section 309(a) Order, the EPA retains the right to bring further enforcement action under Sections 309(d) or 309(g) of the Act, 33 U.S.C. §§1319(d) or 1319(g), for the violations cited in this Order and for any other violation of the Act. Violations of the Act, including requirements contained in a National Pollutant Discharge Elimination System (NPDES) permit or a Section 309(a) Order, remain subject

to a civil penalty of up to \$27,500 per day for each violation pursuant to Sections 309(d) or 309(g) of the Act, 33 U.S.C. 1319(d) or 1319(g). Such violations of the Act may also be subject to criminal action.

Internet Address (URL) <http://www.epa.gov>

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Should you have any questions concerning the enclosed Order, please contact Mr. John Harkins at (404) 562-9758, or at the address on the letterhead.

Sincerely,

Douglas F. Mundrick, P.E., Chief
Water Programs Enforcement Branch
Water Management Division

Enclosure

I . Consent Agreement and Consent ()rdef iOr Compliance

cc: Mr. Alan W. Klimek, North Carolina Department
of Environment and Natural Resources



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER 31 FORSYTH
STREET

ATLANTA, GEORGIA 30303-8960

February 27, 2007

CERTIFIED MAIL 7005 3110 0003 6266 0059 RETURN
RECEIPT REQUESTED

Mr. Alan W. Klimek, Director
Division of Water Quality
North Carolina Department of Environment and
Natural Resources
1617 Mail Service Center
Raleigh, NC 27699-1617

SUBJ: Consent Agreement and Consent Order for Compliance
Docket No. CWA-04-2007-4750 Charlotte-Mecklenburg
Utilities

Dear Mr. Klimek:

Pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. 1319(a), respectively, I have determined that the above referenced facility is in violation of the CWA. As a result, I have issued a Consent Agreement and Consent Order for Compliance, a copy of which is enclosed for your reference. The Order is presently being served.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Giattina".

James D. Giattina, Director
Water Management Division

Enclosures